

110. (NEW) The method of claim 107 wherein said prompting step further comprises:

playing a voice message to said customers via said wireless device, wherein said voice message comprises a list of said point of sale locations; and

receiving information from said customer's wireless device identifying said selected point of sale location.

111. (NEW) The method of claim 107 wherein said identifying step further comprises the step of:

identifying a specific antenna that is communicating with said customer's wireless device.

112. (NEW) The method of claim 107 wherein said financial data comprises: product information detected using a bar code scanner coupled to a customer's wireless device.

REMARKS

Claims 1-105 were filed in the initial application. Claims 1-75, 77-94 and 96-105 have been rejected by the Examiner and claims 76 and 95 are objected to. Applicant has canceled claims 1-36, 39, 41-46, 50, 52-56, 63-65, 67-70, 73, 74, 77, 80-82, 84, 85, 87-90, 93, 96 and 101-105; amended claims 76 and 95; and added new claims 106-112.

Claims 37, 38, 40, 47-49, 51, 57-62, 66, 71, 72, 75, 76, 78, 79, 83, 86, 91, 92, 94, 95, 97-100 and 106-112 are pending the application. The outstanding issues in the present Office Action are:

- Claims 1-7, 11-19, 21, 23-39, 44-59, 64-75, 77-83, 85-94 and 96-103 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,878,337 to Joao et al. ("Joao");
- Claims 8, 10, 20, 22, 40-43 and 60-63 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Joao;

- Claims 9, 21 and 84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Joao and further in view of U.S. Patent No. 5,794,221 to Egendorf; and
- Claims 76 and 95 would be allowable if rewritten, but stand objected to as being dependent upon a rejected base claim.

Applicant submits that the pending claims are allowable in view of the arguments set forth below.

AMENDMENTS TO THE SPECIFICATION

Applicant has amended the specification at page 1 to correct the serial number of a related application. Applicant has amended the specification at page 9 to correct a typographical error. No new matter has been added by these amendments.

REQUEST FOR CLARIFICATION OF CERTAIN CLAIM REJECTIONS

In the present Office Action, claims 47, 48, 78, 79, 83, 92 and 97 have been rejected under 35 U.S.C. § 102(e) over the Joao patent on the same basis as one of the following claims: 8, 10, 22 and 40. However, claims 8, 10, 22 and 40 have not been rejected under 35 U.S.C. § 102(e). Instead, these claims stand rejected under 35 U.S.C. § 103(a). *See* Office Action pp. 11-14. The various rejections under 35 U.S.C. § 103(a) propose modifications to the Joao patent. Such modifications to Joao are not appropriate under § 102(e). *See* M.P.E.P. § 2131. Accordingly, Applicant respectfully requests that the Examiner clarify the status of claims 47, 48, 78, 79, 83, 92 and 97 in a subsequent non-final Office Action.

THE JOAO REFERENCE

In the present invention, transactions are initiated and completed by customers using a single wireless device, such as a cellular telephone. On the other hand, the Joao system requires that the user have two separate and independent devices in order to complete transactions. The Joao system is used to provide authorization, notification and security. (Col. 3, ln. 62-66). A transaction is initiated with one device and then allowed or rejected using the second device.

In the Joao system, the user may initiate the transaction using a credit card at a point of sale terminal **2** (Fig. 1, col. 12-13), a checking account at a banking transaction terminal **102** (Fig. 4, col. 20-21), or a transaction terminal connected to the Internet **302** and **402** (Fig. 10 and 11, col. 35). In each of these embodiments, the user must also have a “communications device” to accept or reject the transaction. The communications devices include a cardholder communications device **4** (col. 14), an account owner communications device **104** (col. 22) and communications devices **304** and **404** (col. 35-36).

In another embodiment from the Joao patent, the user can initiate a transaction via a wireless device, such as a cellular telephone **202** (Fig. 7, col. 28-29). However, the user must also have a separate “cellular telephone owner communications device” **204** (col. 29) in order to allow the transaction or call. Joao discloses that these devices can be used by the same person or by two different people. In either case, both devices must be used to permit calls on the cellular telephone. There is no disclosure in Joao that the same device can be used both to initiate the transaction and to acknowledge, accept or reject the transaction.

Moreover, in the cellular telephone embodiment, the only “transactions” that are disclosed are calls. There is no disclosure in Joao that a cellular telephone can be used to initiate a purchase, sale or financial transaction or any other non-call transaction.

Claim 40

Claim 40 requires the limitation that “customers select said point of sale locations using a series of menus displayed on said wireless devices.” The Examiner asserts that it would have been obvious to one of ordinary skill to have “utilized menus to **display** the point-of-sale location.” (Office Action, p. 13)(emphasis added). However, the claim requires using the menus to **select** the point of sale location. Applicant traverses the rejection of claim 40. There is no teaching or suggestion in Joao that a list of possible point of sale locations can be displayed to the user for selection or that the user can select the point of sale location using the “communications device.” Instead, only a single point of sale location is sent to the “communications device” after the transaction has already be initiated at a transaction terminal. (Col. 6, ln. 18-44).

Claim 51

Claim 51 requires a means for informing customers of communicated financial data, “wherein said informing means comprises a voice message.” The Office Action rejected claim 51 on the same grounds as claim 26. However, claim 26 is explicitly limited to **displaying** information. There is no citation of a “voice message” in the language or rejection of claim 26, and Joao does not teach or disclose such a feature.

Claim 59

Claim 59 requires “using menus displayed on said wireless telephones” to identify point of sale locations. As discussed above with respect to claim 40, Joao does not teach or suggest using menus to select or identify the point of sale locations. Applicant traverses the rejection set forth in the Office Action (p. 7), which refers to the rejection of claims 44 and 45 and, indirectly, to the rejection of claim 32. Claims 32, 44 and 45 do not require the use of menus to select or identify a point of sale location, and the corresponding rejections (pp. 5 and 6) do not show the use of such menus in the prior art.

Claims 60-62

Claims 60-62 include the feature of determining the geographic location of a customer. Applicant traverses the Examiner’s rejection of claims 60-62 under 35 U.S.C. § 103(a), wherein the Examiner suggests that it would have been obvious to use wireless network location information. M.P.E.P. § 2143.01 requires that the prior art must suggest the desirability of the claimed invention. As the Examiner admits, Joao does not disclose using wireless locating features. Applicant submits that there is no motivation or suggestion to add locating features to the Joao system.

The Joao system always knows where a transaction will take place because there are “transaction terminals” at the point of sale locations. The point of sale terminals include input devices, such as magnetic strip card readers (col. 13, ln. 20-24), keyboards, reading or scanning devices (col. 21, ln. 21-25) or keypads (col. 29, ln. 20-24). Therefore, the Joao system always knows which device is involved in a transaction and any location information is irrelevant.

Furthermore, in Joao, the person who approves the transaction may be at a location separate from the transaction location. The approving person uses a "communication device" to accept or reject the transaction that is made at the point of sale. Therefore, the "communication device" location is unrelated to the actual transaction. Furthermore, the Joao disclosure never mentions the need to locate the communication device, which may be, for example, a cellular telephone or pager. In the embodiment that uses a cellular telephone as the transaction terminal, the Joao system never uses or displays location information for that cellular telephone. Instead, the system merely displays, on the separate "communication device," the number called, the time of the call and the duration of the call that is made on the cellular telephone. (Col. 33, ln. 20-25).

Claims 61 and 62 require identifying a specific cell site or a wireless network antenna that is in communication with the customer's wireless telephone. The Joao system contains no discussion of such features or functions, and there is no indication or suggestion that such an identification is useful or necessary. Moreover, it is unclear how location information would be incorporated into, or used by, the Joao system. Clearly, a wireless communication system uses location information. However, a wireless communication system is not what is claimed. The Examiner has not provided any motivation as to why one skilled in the art would add wireless location information to modify the claimed system for processing financial data.

Claim 72

Claim 72 requires that the customer identify a point of sale location using menus displayed on the wireless device. The Examiner has rejected claim 72 under 35 U.S.C. § 102(e) on the same basis as claim 33. However, claim 33 does not require the use of menus and does not include the same features as claim 72. Applicant traverses the rejection of claim 72.

The section of Joao cited in the rejection of claim 33 (col. 6, ln. 13-28) does not teach that the customer has **identified** the point of sale location. Instead, the cited section teaches that point of sale terminal information is sent to the customers communication device **after** it has been selected and after the transaction has been initiated.

Claim 100

Claim 100 requires means for customers to select individual profiles to identify the source of funds for a transaction. Although the Examiner has generally rejected claim 100 under 35 U.S.C. § 102(e) using Joao, there is no specific discussion of how Joao applies to this claim. Applicant notes that claims 79 and 97 also require “profiles,” but the rejections for those claims fail to address this feature.

Applicant traverses the rejection of claim 100. The Joao reference does not disclose the use of customer or individual profiles as disclosed and claimed in the present invention. Instead, customers in the Joao system simply identify a particular account when they initiate a transaction. There is no disclosure in Joao that accounts or preferences are preselected in a customer profile or that the Joao system can refer to a profile to identify the desired account for a particular type of transaction.

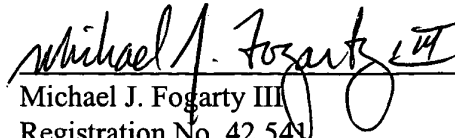
Applicant submits that Joao does not teach each and every element of the pending claims, and, therefore, the pending claims are allowable over the Joao reference under 35 U.S.C. § 102(e). Furthermore, there is no motivation to modify the Joao system to provide the missing claim elements. Therefore, the pending claims are also allowable over Joao under 35 U.S.C. § 103(a). Accordingly, Applicant respectfully requests that the Examiner pass claims 37, 38, 40, 47-49, 51, 57-62, 66, 71, 72, 75, 76, 78, 79, 83, 86, 91, 92, 94, 95, 97-100 and 106-112 to issue.

ALLOWABLE SUBJECT MATTER

The Examiner has indicated that claims 76 and 95 would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Applicant has amended claims 76 and 95 as suggested by the Examiner. Claim 76 has been amended to include the limitations of base claim 66 and intervening claim 75. Claim 95 has been amended to include the limitations of base claim 86 and intervening claim 94. Accordingly, Applicant submits that claims 76 and 95, as amended, are allowable without objection.

Applicant respectfully requests that the Examiner call the below listed attorney if the Examiner believes that a discussion would be helpful in resolving any remaining problems.

Respectfully submitted,



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